

NOTICE OF PROPOSED CHANGES IN REGULATIONS OF THE
CALIFORNIA DEPARTMENT OF SOCIAL SERVICES (CDSS)

ITEM # 1 In-Home Supportive Services (IHSS) Program General Exception
Requirements

The CDSS hereby gives notice of the proposed regulatory action(s) described below. Any person interested may present statements or arguments orally or in writing relevant to the proposed regulations at a public hearing to be held on December 5, 2017, at the following address:

Office Building # 8
744 P St. Room 103
Sacramento, California

The public hearing will convene at 10:00 a.m. and will remain open only as long as attendees are presenting testimony. The purpose of the hearing is to receive public testimony, not to engage in debate or discussion. The Department will adjourn the hearing immediately following the completion of testimony presentations. The above-referenced facility is accessible to persons with disabilities. If you are in need of a language interpreter at the hearing (including sign language), please notify the Department at least two weeks prior to the hearing.

Statements or arguments relating to the proposals may also be submitted in writing, e mail or by facsimile to the address/number listed below. All comments must be received by 5:00 p.m. on December 5, 2017.

Following the public hearing CDSS may thereafter adopt the proposals substantially as described below or may modify the proposals if the modifications are sufficiently related to the original text. With the exception of nonsubstantive, technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption to all persons who testify or submit written comments during the public comment period and all persons who request notification. Please address requests for regulations as modified to the agency representative identified below.

Copies of the express terms of the proposed regulations and the Initial Statement of Reasons are available from the office listed below. This notice, the Initial Statement of Reasons and the text of the proposed regulations are available on the internet at (<http://www.cdss.ca.gov/inforesources/Letters-Regulations/Legislation-and-Regulations/CDSS-Regulation-Changes-In-Process-and-Completed-Regulations/Public-Hearing-Information>).

Additionally, all the information which the Department considered as the basis for these proposed regulations (i.e., rulemaking file) is available for public reading/perusal at the address listed below. Following the public hearing, copies of the Final Statement of Reasons will be available from the office listed below:

Office of Regulations Development
California Department of Social Services
744 P Street, MS 8-4-192
Sacramento, California 95814

TELEPHONE: (916) 657-2586
FACSIMILE: (916) 654-3286
E-MAIL: ord@dss.ca.gov

CHAPTERS

The CDSS Manual of Policies and Procedures (MPP), Social Service Standards Manual, Division 30, Chapter 30-700 (Service Program No. 7: In-Home Supportive Services), Section 30 778 (General Exception Requirements).

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Existing regulations prohibit an individual from providing In-Home Supportive Services (IHSS) to an IHSS recipient if he or she has been convicted of specified crimes in the previous 10 years unless such individual is otherwise eligible to be an IHSS provider and an IHSS recipient chooses to hire the individual as his/her provider in spite of the criminal conviction(s) and the county provides the individual with a waiver of the exclusion.

These regulatory amendments implement Assembly Bill (AB) 1612 (Chapter 725, Statutes of 2010), Section 24, which includes a provision allowing an individual who has been found ineligible to be an IHSS provider on the basis of a conviction(s) for one of the crimes added by legislation to request a general exception which would allow the individual to provide services to any IHSS recipient who chooses to hire the individual as his/her provider and to be included on provider registry lists in any county of his/her choosing. The California Department of Social Services, Caregiver Background Check Bureau, is designated as the agency assigned the task of adjudicating of all requests by individuals seeking to validate his/her claim of rehabilitation and unlikelihood to reoffend which would allow those individuals to be candidates to serve as providers for IHSS recipients within the State of California. As allowed in AB 1612, the general exception rule has been implemented through an All County Letter until regulations are adopted.

The Department anticipates that these proposed regulations will benefit program stakeholders by consolidating the rules relating to IHSS general exception requirements, which have to date been released only via ACL into a single place, the Manual of Policies and Procedures. The general exception requirements themselves promote safety and security of IHSS recipients while still allowing them to hire the provider of their choice by ensuring that those providers who have received general exceptions due to having serious or violent felony criminal convictions have been thoroughly evaluated and vetted by the CDSS to ensure that they have been properly rehabilitated and are unlikely to reoffend.

The Department reviewed existing program regulations and determined that no other regulations address the requirements necessary to receive a general exception for becoming an IHSS provider. Thus, these proposed regulations are not only consistent and compatible with existing state regulations but also with the intent of the Legislature in enacting AB 1612.

COST ESTIMATE

1. Costs or Savings to State Agencies: The 2017-18 Governor's Budget includes \$2,948,000 for FY 2016-17 and \$3,140,000 for FY 2017-18. Please note that this results in a shift from Federal Fund to State General Fund due to this regulation change.

2. Costs to Local Agencies or School Districts Which Must Be Reimbursed in Accordance With Government Code Sections 17500 - 17630: N/A
3. Nondiscretionary Costs or Savings to Local Agencies: None.
4. Federal Funding to State Agencies: None.

LOCAL MANDATE STATEMENT

These regulations do not impose a mandate on local agencies or school districts. There are no state-mandated local costs in this order that require reimbursement under the laws of California.

STATEMENT OF SIGNIFICANT ADVERSE ECONOMIC IMPACT ON BUSINESS

The CDSS has made an initial determination that the proposed action will not have a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. This determination was made because the regulations only apply to specified individuals seeking to become IHSS providers.

STATEMENT OF POTENTIAL COST IMPACT ON PRIVATE PERSONS OR BUSINESSES

The CDSS is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

SMALL BUSINESS IMPACT STATEMENT

The CDSS has determined that there is no impact on small businesses as a result of filing these regulations because these regulations are only applicable to state and county agencies.

STATEMENT OF RESULTS OF ECONOMIC IMPACT ASSESSMENT

The adoption of the proposed amendments will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California. These amendments promote safety and security of IHSS recipients by ensuring that the providers who have received general exceptions due to having serious or violent felony criminal convictions have been thoroughly evaluated and vetted by the CDSS to ensure that they have been properly rehabilitated and are unlikely to reoffend.

STATEMENT OF EFFECT ON HOUSING COSTS

The proposed regulatory action will have no effect on housing costs.

STATEMENT OF ALTERNATIVES CONSIDERED

In developing the regulatory action, CDSS did not consider any other alternatives to the proposed regulatory action because the authorizing legislation specified that CDSS implement the provisions for which the regulations are proposed through All County Letters (ACLs) or similar instruction until regulations are adopted.

The CDSS must determine that no reasonable alternative considered or that has otherwise been identified and brought to the attention of CDSS would be more effective in carrying out the purpose for which the regulations are proposed or would be as effective as and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

AUTHORITY AND REFERENCE CITATIONS

The CDSS adopts these regulations under the authority granted in Sections 10553 and 10554, Welfare and Institutions Code. Subject regulations implement and make specific Section 12305.87, Welfare and Institutions Code.

CDSS REPRESENTATIVE REGARDING THE RULEMAKING PROCESS OF THE PROPOSED REGULATION

Contact Person:	Everardo Vaca	(916) 657-2586
Backup:	Sylvester Okeke	(916) 657-2586